

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2029 - SB 2178

February 20, 2014

SUMMARY OF BILL: Creates a new offense for “retail vandalism,” punishable as theft under Tenn. Code Ann. § 39-14-105. One commits retail vandalism who intentionally or recklessly damages property of another when the property is used by its owner or possessor in the owner’s or possessor’s profession, business, trade, or occupation, or the person damages or marks the property owner’s merchandise.

Creates a new offense for “aggravated retail vandalism,” a Class C felony if committed intentionally or knowingly or a Class D felony if committed recklessly. One commits aggravated retail vandalism if in the course of committing retail vandalism, one pollutes the property owner’s merchandise.

Creates a new offense for “organized retail vandalism,” a Class E felony, if one organizes, coordinates, controls, supervises, finances, manages, aids, or abets any of the activities of an organized retail vandalism enterprise.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$90,300/Incarceration*

Assumptions:

- It is assumed that the conduct prohibited under the proposed aggravated retail vandalism is currently being prosecuted as Class E felony vandalism. It is also assumed that the bill would result in one Class C felony conviction and one Class D felony conviction per year for aggravated retail vandalism. The bill would result in one offender serving an additional 1.67 years (2.98 years, average time served for Class C felony – 1.31 years, average time served for Class E felony) and one offender serving an additional 0.75 years (2.06 years, average time served for Class D felony – 1.31 years, average time served for Class E felony).
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2014 is \$66.29.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- A recidivism discount of 32.03 percent applies to the Class D offense, but due to the

low number of admissions added by this legislation, the recidivism discount does not impact the incarceration cost for the proposed legislation.

- A recidivism discount of 45.52 percent applies to the Class C offense, but due to the low number of admissions added by this legislation, the recidivism discount does not impact the incarceration cost for the proposed legislation.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 1.67 years (609.97 days) and one offender serving an additional 0.75 years (273.94 days) for a total of \$58,594.39 [\$66.29 x (609.97 days + 273.94 days)].
- It is assumed the proposed legislation will result in one admission for organized retail vandalism, a Class E felony. The average time served for a Class E felony is 1.31 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 1.31 years (478.48 days) for a total of \$31,718.44 (\$66.29 x 478.48 days).
- The total increase in state expenditures is \$90,312.83 (\$58,594.39 + \$31,718.44).
- The proposed legislation will only create three new felony cases per year. It is assumed that the courts, district attorneys, and public defenders can accommodate the impact within their existing resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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